

**FLATHEAD COUNTY BOARD OF ADJUSTMENT
MINUTES OF THE MEETING
JANUARY 5, 2021**

**CALL TO ORDER
6:00 PM**

A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. via Zoom. Board members present were Ole Netteberg, Tobias Liechti, and Roger Noble. Cal Dyck and Gina Klempel had excused absences. Mark Mussman and Laura Mooney represented the Flathead County Planning & Zoning Office.

There were 7 members of the public in attendance.

**APPROVAL OF
MINUTES
6:01 PM**

Netteberg motioned, seconded by Liechti, to approve the December 1, 2020 minutes as written.

The motion passed unanimously on a roll call vote.

**ELECTION OF
OFFICERS
6:01 PM**

Board discussed postponing until more board members were present. They decided to put it on next month's agenda

**PUBLIC COMMENT
(Public matters that are
within the jurisdiction of the
Board 2-3-103 M.C.A)
6:02 PM**

None

**BOARD DISCLOSURE
OF ANY CONFLICT OF
INTEREST
6:03 PM**

None

**JTC PROPERTIES LLC
(FZV-20-03)
6:04 PM**

A request by JTC Properties, LLC for a variance to Section 3.16.040(5) of the Flathead County Zoning Regulations (FCZR), to exceed the 40% maximum lot coverage. The subject property is zoned RC-1 (Residential Cluster) and is located at 283 and 287 Eagle Bend Drive in Bigfork, MT, within the Bigfork Zoning District. The property contains approximately 0.194 acres.

STAFF REPORT
6:05 PM

Laura Mooney reviewed the Staff Report FZV-20-03 for the board.

BOARD QUESTIONS
6:07 PM

None

**APPLICANT
PRESENTATION**
6:07 PM

Tim Calaway, 365 Riverbend Rd, was the applicant. This lot had been established before the zoning and the other lots in the area were built. He discussed the topography and the hardship it created for development. The house had been designed around the rock so that they did not have to disturb the rock. He further described the design of the deck and how it came to need a variance and continued to discuss the hardship of the topography in detail. He went through the finding of facts and countered some of the negative findings.

PUBLIC COMMENT
6:15 PM

Lou McGuire, 259 Eagle Bend Drive, had submitted a comment and wanted to make sure it was a part of the record. The board members had received the comment prior to the meeting.

Ed Miller, 281 Eagle Bend Dr., was an adjacent property owner and wanted to make sure that his comment, which he had sent in, was also a part of the record. The board members had received the comment prior to the meeting.

BOARD DISCUSSION
6:18 PM

Liechti appreciated the apology from Calaway and reiterated that they preferred to address these variances before they become “after-the-fact” He felt it was an honest mistake which did not have a huge negative impact. The opposition expressed did not seem to align with the issue at hand with this particular zoning variance.

Netteberg agreed with Liechti. They did not like after-the-fact permits. He highlighted that variances were going to become more frequent as people tried to develop some of the land that did have topography challenges. He felt it was minute and not a big deal.

Noble agreed with the other board members. He reviewed the packet, reviewed the hardship of the topography, and felt the applicant had tried to work the deck into the topography as much as possible. He felt 3.5% was about as minor as you could get.

Noble asked staff what they would need to do to amend the findings in order to approve it. Mussman discussed protocol and suggested they discussed what amendments they would like to make and then motion to accept the findings of fact as modified.

**MAIN MOTION ON TO
ADOPT F.O.F.
(FZV-20-03)
6:27 PM**

Netteberg made a motion, seconded by Liechti, to accept Staff Report FZV-20-03 as Findings-of-Fact with the following modifications:

1. Strict compliance with the regulations would ~~not~~ limit the reasonable use of property because the applicants ~~could~~ *cannot* reduce the deck size ~~in accordance with the permitted lot coverage requirements~~ *due to topographic and landscape limitations.*
5. The alleged hardship was *not* created by the applicant because the alleged hardship relates to topographic features and other physical characteristics of the site.
8. The variance requested ~~does not~~ *appears* to be the minimum variance, which would alleviate the alleged hardship because the decks could be reduced in size and no variance would be required.

**BOARD DISCUSSION
6:27 PM**

None

**ROLL CALL VOTE TO
ADOPT F.O.F.
(FZV-20-03)
6:27 PM**

Motion passed unanimously on a roll call vote.

**MOTION TO APPROVE
(FZV-20-03)
6:28 PM**

Netteberg made a motion, seconded by Liechti, to approve FZV-20-03.

**BOARD DISCUSSION
6:28 PM**

None

**ROLL CALL TO
APPROVE
(FZV-20-03)
6:29 PM**

Motion passed unanimously on a roll call vote.

**OLD BUSINESS
6:30 PM**

Mussman said they will discuss camp and retreat centers when there are more board members present.

**NEW BUSINESS
6:30 PM**

None

**ADJOURNMENT
6:31 PM**

The meeting was adjourned at approximately 6:31 pm on a motion by Netteberg. The next meeting will be held at 6:00 pm on February 2, 2021.

Roger Noble, Board Member

Angela Phillips, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED __/__/2021